

The City of West University Place

A Neighborhood City

CITY COUNCIL

Susan Sample, Mayor
Bob Kelly, Mayor Pro Tem
Burt Ballanfant, Councilmember
Brennan Reilly, Councilmember
Mardi Turner, Councilmember

STAFF

M. Chris Peifer, City Manager
Alan Petrov, City Attorney
Thelma Lenz, City Secretary

CITY COUNCIL MEETING MINUTES

The City Council of the City of West University Place, Texas, met in regular session on **Monday, January 25, 2016**, in the Municipal Building, 3800 University, West University Place, Texas beginning at **6:30 p.m.**

Agenda Items were as follows:

Call to Order. Mayor Sample called the meeting to order at 6:30 p.m. in the City Council Chambers. Council and Staff in attendance were: Mayor Pro Tem Kelly, Councilmembers Ballanfant and Reilly, City Manager Peifer, City Attorney Petrov, City Secretary Lenz, Police Chief Walker, and Public Works Director Beach. Councilmember Turner was absent.

Chip Slater, Boy Scout Troop 55, led the Pledge of Allegiance.

City Secretary Lenz confirmed that the notice of this meeting was duly posted in accordance with the Texas Government Code, Chapter 551.

1. Public Comments

This was an opportunity for citizens to speak to Council relating to agenda and non-agenda items.

Eddie Matthews, 5906 Fordham, spoke regarding street parking. He said many contractors working in West U have large vehicles with wide trailers that are often parked in a manner that creates a danger to pedestrians and a possible impediment to emergency service vehicles. He asked if there are any ordinances, regulations or rules applicable to prevent such situations and if not, would Council and staff study this issue as part of its Parking Etiquette Program to see if it is appropriate to impose rules for the benefit of public safety.

Alida Drewes, 6112 Fordham, spoke to say she agreed with the previous speaker. She also said that today she and her daughter had a fabulous time in Galveston via the County bus because they weren't treated like two-year-olds. She said they received no boarding instructions, the tour guide did not act like a drill sergeant, more than 30 people showed up, they were not ordered to put on their seat belts, and they were not scolded.

2. Street Parking and Parking Violations

Matters relating to Parking Etiquette Program, designated drop off zones, parking on sidewalks, and guidance to staff regarding parking violations. *Discuss and take any desired action.*

Public Works Director Beach presented information regarding the Parking Etiquette Program (PEP) and said the program started on October 1, 2012 by the previous council in an attempt to encourage good behavior by neighbors through a series of warnings before being issued punitive

citations. He said the first citation is an informal warning, the second is a formal warning, and the third involves a monetary fine. Mr. Beach then reviewed the stats from 2013 to present – in 2013 there were 122 citations issued, 28 in 2014 and 88 in 2015.

Councilmember Reilly asked if the PEP is handled by Code Enforcement or by the Police Department or both. Mr. Beach replied that the majority is done by Code Enforcement.

When asked by Councilmember Reilly what traffic citations the police department is primarily responsible for, Chief Walker responded that, typically, the Police Department handles the call-ins and complaints on nights and weekends and that during office hours, Monday through Friday, calls are first assigned to Code Enforcement (Daniel) and then dispatched to an officer if Daniel is not available.

Councilmember Reilly said he could not find anything in the Minutes from 2012 that indicates that the PEP was approved by Council.

City Manager Peifer said to the best of his recollection, the recommendation to, and agreement by, Council was that staff would try an incremental approach by educating the public and moving forward with the warning system process.

Councilmember Reilly asked staff how it monitors citations issued. Mr. Beach said the Code Enforcement Officer maintains a log of citations by license plates.

Chief Walker noted that the numbers presented tonight do not include citations issued by the Police Department.

Councilmember Ballanfant asked if builders and contractors are given written information that indicates that no parking over sidewalks is an important issue for the city. Mr. Beach responded yes, staff provides them with information.

Councilmember Reilly said he thinks there is a widespread misunderstanding out in the public because the "Parking Etiquette Program" means a person can't get a ticket if he parks on the sidewalk, which is wrong because tickets are given to people who park on sidewalks. He confirmed this with Chief Walker and Public Works Director Beach.

Chief Walker said one of the things that might be causing confusion is the issue with corner houses with short driveways, because there is an exception for those homes in the State law. He said so a policy decision was made by a previous Council that on the short driveways, it would not be considered a violation.

Councilmember Reilly said the Minutes from July 2012 does not show an action taken regarding a policy decision, pro or con. He said there were some motions made to specifically ban parking over sidewalks, which failed; there were motions made to say it was okay, which also failed, so he's wondering if there has really been direction by the City Council one way or the other to say whether that parking is permitted. He said Council is a legislative function, but it doesn't control this issue because the State does and so it is up to enforcement to use their discretion to decide how to enforce the law. He said Council shouldn't be telling staff one way or the other what to do about parking.

Chief Walker said he considers this a policy issue and if Council wants, or doesn't want, to change that policy, let staff know.

Councilmember Reilly asked where is the policy and who approved it and when. Chief Walker said it was a policy memo sent out by City Manager Michael Ross in 2004.

Mayor Sample asked staff to provide information on the number of new houses that have been built on the short driveway since 2008. Mr. Beach said he would provide those numbers.

City Attorney Petrov noted that some of the sidewalk issues were minimized when new sidewalks were installed under the sidewalk construction program.

Councilmember Reilly said the legislative history for the prohibition of parking on the sidewalks seems to have been done to comply with the ADA. He asked City Attorney Petrov if the City would have any potential liability under the ADA if the City had an explicit non-enforcement policy about parking over sidewalks with respect to any property.

Mr. Petrov said the City could not ignore the ADA and if there was a perpetual issue that impacted some handicapped person, he believes that might be a problem; but, he doesn't feel that a general policy absent some specific impact is a real issue.

Councilmember Reilly confirmed with Mr. Petrov that if somebody was using a sidewalk and complained about over the sidewalk parking at one of the houses that has a short driveway and that complaint wasn't addressed, that could be a source of potential liability for the City.

Councilmember Reilly confirmed with Mr. Petrov that if citizens are upset about cars parked on the driveway and their ability to pass is affected and they have an ADA issue, they need to file a complaint with the City to address a concern regarding a short driveway on a corner house.

Mayor Pro Tem Kelly said he likes that the numbers are going down, so he is optimistic that the enforcement is working. He said to get the numbers down even more the City might want to inform new residents of the rules if staff isn't already doing so. He added, however, that the first warning also serves as a notice to residents.

Councilmember Reilly said he doesn't feel that the 2004 policy is appropriate and thinks that staff and the police ought to use their discretion in determining whether or not to enforce those rules.

Chief Walker said this is a real divisive issue and if Council wants staff to change it, it should make a policy and staff will change it.

Mayor Sample said she definitely doesn't want staff to use its discretion because someone could feel targeted.

Councilmember Reilly said what Council shouldn't be doing as a legislative body is telling staff how to enforce a law that wasn't written by Council, but by the State. He said if people don't like the State law, they should go to their state representative or senator and complain about it, not Council.

Councilmember Reilly said he is talking about all houses and Chief Walker reminded him that all houses are not exempted by the State law, only corner houses with short driveways. He said he is not going to send his guys out saying do this one, but not that one, etc. He said either they are going to do it or not. He said if the City Manager or Council wants to change how things are being done, he doesn't have a dog in the hunt, so he will do whatever they desire.

Councilmember Reilly said he would suggest revoking the policy. He said he wouldn't have Council approve any policy one way or the other, because it's a State law issue.

Mayor Pro Tem Kelly suggested getting a legal opinion from Mr. Petrov as to whether the City is in conflict with State law and whether the policy of March 22, 2004 is in conflict with State law and if so do they open the City up to problems with the State or other potential liability.

Mr. Petrov said he will review the policy of March 22, 2004 and the State law and report back at the next meeting.

3. Future Agenda Items

Matters related to future agenda items. *Discuss and take any desired action.*

Councilmember Reilly moved to add an agenda item to provide some additional guidance to the Building and Standards Commission and/or Zoning and Planning Commission about when an exception of the height limit for a fence should be granted. **Motion died due to lack of a second.**

Councilmember Reilly moved to add an item to discuss video distribution of Council and board meetings. Mayor Pro Tem Kelly seconded the motion. The item will be on the agenda for the second meeting in February.

4. Consent Agenda

All Consent Agenda items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council member requests in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

A. City Council Meeting

Approve City Council Minutes of the January 4, 2016 and January 11, 2016. *Recommended Action: Approve Minutes.*

Mayor Pro Tem Kelly moved to approve the Consent Agenda as presented. Councilmember Reilly seconded the motion. **MOTION PASSED.**

Ayes: Sample, Kelly, Ballanfant, Reilly
Noes: None
Absent: Turner

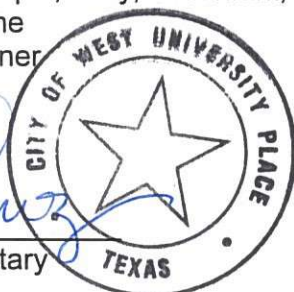
5. Adjourn

With no further discussion, Councilmember Ballanfant moved to adjourn the meeting at 7:20 p.m. Mayor Pro Tem Kelly seconded the motion. **MOTION PASSED.**

Ayes: Sample, Kelly, Ballanfant, Reilly
Noes: None
Absent: Turner

Prepared By:

Thelma A. Lenz, City Secretary



February 8, 2016
Date Approved